

## REMARKS

In view of the above amendments and the following remarks, reconsideration of the application is respectfully requested.

### Interview Summary (Telephone) – September 17, 2009

The undersigned attorney and Mr. Tim Paul would again like to thank examiners Leavitt and Voitach for the courtesy of the telephone interview held on September 17, 2009. During the interview, examiner Leavitt indicated that the outstanding 112 rejections would be removed if the term “exterior” was deleted from the claims with regard to the surfaces of the collagenous layers. Following the interview, Mr. Paul faxed to examiner Leavitt proposed amendments of claims 54 and 67 which are identical to amended claims 54 and 67 above. During a follow-up call from Mr. Paul, examiner Leavitt indicated that the proposed amendments of claims 54 and 67 would overcome all outstanding rejections and that an updated search of the prior art would be conducted if the amendments were filed.

### *Rejection under 35 U.S.C. §103*

Claims 54-60, 62, 66 and 67 stand rejected under 35 U.S.C. §103 as being unpatentable over Badylak et al. (U.S. Patent No. 6,099,567) in view of Stinson et al. (U.S. Patent Application No. 2004/0111149).

Claim 54 has been amended to specify that the radiopaque marker is completely contained between the opposing surfaces of the first collagenous strip and the second collagenous strip. Support for the amendment can be found, for example, in Figure 4 as is otherwise readily apparent from the disclosure.

Claim 67 has been amended to specify that in the process for preparing the layered device, the first collagenous layer and the second collagenous layer are brought together to form a layered structure in which a surface of the first collagenous layer opposes a surface of the second collagenous layer, with the radiopaque marker positioned between the opposing surfaces. Thereafter, the first collagenous layer is bonded to the second collagenous layer with the radiopaque marker remaining positioned between the opposing surfaces.

For at least these reasons, neither Badylak nor Stinson, nor their combined teachings, would have taught or suggested the subject matter of any of claims 54-60, 62, 66 or 67, and therefore withdrawal of these rejections is solicited.

#### ***Rejection under 35 U.S.C. §112 - Second Paragraph***

Claims 54-60, 62, 66 and 67 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

As discussed above in the interview summary, claims 54 and 67 have been amended rendering these rejections moot.

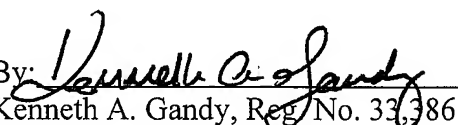
#### **Conclusion**

Reconsideration and allowance of the application are solicited. This response including claim amendments has been submitted in order to expedite the prosecution of this application, and is made without prejudice or admission in respect of the previously claimed subject matter or any of the remarks in the current Office Action Summary.

**Request for Interview**

The Applicant requests an opportunity for an interview of the Examiner if the Examiner believes that any objection or rejection could be maintained against the application as amended. The Examiner is requested to contact the undersigned attorney to arrange any such interview necessary.

Respectfully submitted,

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